

Order

Entered: February 3, 2004

Michigan Supreme Court
Lansing, Michigan

Maura D. Corrigan,
Chief Justice

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Clifford W. Taylor
Robert P. Young, Jr.
Stephen J. Markman,
Justices

ADM File No. 2000-29

Amendment of Rules
7.202, 7.204, 7.205, and 7.212
of the Michigan Court Rules

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendments of Rules 7.202, 7.204, 7.205, and 7.212 of the Michigan Court Rules are adopted, effective May 1, 2004.

[Underlining indicates new text and strikeover indicates text being deleted.]

Rule 7.202 Definitions

For purposes of this subchapter:

(1) – (2) [Unchanged.]

(3) ~~“entry” means the placing of an order, judgment, or other document into the file and records of a lower court or the Court of Appeals by the clerk;~~

(4) – (7) [Renumbered (3)-(6) but otherwise unchanged.]

Rule 7.204 Filing Appeal of Right; Appearance

(A) Time Requirements. The time limit for an appeal of right is jurisdictional. See MCR 7.203(A). The provisions of MCR 1.108 regarding computation of time apply. For purposes of subrules (A)(1) and (A)(2), “entry” means the date a judgment or order is signed, or the date that data entry of the judgment or order is accomplished in the issuing tribunal’s register of actions.

(1) – (2) [Unchanged.]

(3) Where service of the judgment or order on appellant was delayed beyond the time stated in MCR 2.602, the claim of appeal must be accompanied by an affidavit setting forth facts showing that the service was beyond the time stated in MCR 2.602. Appellee may file an opposing affidavit within 14 days after being served with the claim of appeal and affidavit. If the Court of Appeals finds that service of the judgment or order was delayed beyond the time stated in MCR 2.602 and the claim of appeal was filed within 14 days after service of the judgment or order, the claim of appeal will be deemed timely.

(B) – (G) [Unchanged.]

(H) Docketing Statement. In all civil appeals, within 28 days after the claim of appeal is filed, the appellant must file two copies of a docketing statement with the clerk of the Court of Appeals and serve a copy on the opposing parties.

(1) Contents. The docketing statement must contain the information required from time to time by the Court of Appeals through the office of the Chief Clerk on forms provided by the Clerk’s office and must set forth:

(a) [Unchanged.]

(b) the date of entry of the judgment or order sought to be reviewed as defined in MCR 7.204(A) or MCR 7.205(A), and whether the appeal was timely filed and is within the court’s jurisdiction.

(c) – (e) [Unchanged.]

(2) – (4) [Unchanged.]

Rule 7.205 Application for Leave to Appeal

(A) Time Requirements: An application for leave to appeal must be filed within 21 days after entry of the judgment or order to be appealed from or within other time as allowed by law or rule. For purposes of this rule, “entry” means the date a judgment or order is signed, or the date that data entry of the judgment or order is accomplished in the issuing tribunal’s register of actions.

(B) – (G) [Unchanged.]

Rule 7.212 Briefs

(A) – (B) [Unchanged.]

(C) Appellant's Brief; Contents. The appellant's brief must contain, in the following order:

(1) – (3) [Unchanged.]

(4) A statement of the basis of jurisdiction of the Court of Appeals.

(a) The statement concerning appellate jurisdiction must identify the statute, court rule, or court decision believed to confer jurisdiction on the Court of Appeals, and the following information:

(i) the date of signing entry the judgment or order ~~sought to be reviewed~~, or the date of data entry of the judgment or order in the issuing tribunal's register of actions, as applicable to confer jurisdiction on the Court of Appeals under MCR 7.204 or MCR 7.205.

(ii) – (iv) [Unchanged.]

(b) [Unchanged.]

(5) – (9) [Unchanged.]

(D) – (I) [Unchanged.]

Staff Comment: The February 3, 2004, amendment of MCR 7.202, 7.204, 7.205, and 7.212, effective May 1, 2004, was adopted on the basis of a recommendation from a work group appointed by the Court of Appeals. The amendments clarify the definition of "entry" of an order for jurisdictional purposes at the Court of Appeals.

The staff comment is not an authoritative construction by the Court.



I, CORBIN R. DAVIS, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

February 3, 2004

Corbin R. Davis

Clerk